

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	WC Docket No. 20-445
Emergency Broadband Benefit	)	

**PETITION FOR WAIVER OF AT&T**

Pursuant to Section 1.3 of the Commission’s rules, 47 C.F.R. 1.3, AT&T<sup>1</sup> hereby requests an expedited grant of the Emergency Broadband Benefit (“EBB”) Program reimbursement rules. Specifically, AT&T requests that the Commission (1) waive the requirement that AT&T claim the Emergency Broadband Benefit (“EBB”) reimbursement within fifteen (15) days of the first snapshot date for an existing AT&T subscriber that is newly enrolled in the EBB program; 2) for each existing AT&T subscriber newly-enrolled in the EBB program, allow AT&T an additional month to submit the first reimbursement claim, i.e., until the 15<sup>th</sup> day of the next month following the first snapshot date for existing AT&T subscribers newly-enrolled in the EBB program.

As explained below, the requested waiver not only serves the public interest by facilitating the ability of participating providers to offer the benefit on a broader range of services, but also will allow the EBB reimbursement to align more closely with the program benefit provided to the subscriber while not undermining the ability of the Universal Service

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<sup>1</sup> AT&T’s request is limited to its affiliates offering home broadband service. [Is this the correct characterization for this service or do we call it “home Internet service or something else?]

Administrative Company (“USAC”) to track the remaining funding for the EBB program. In addition, the Commission has already granted similar waivers to two other providers.<sup>2</sup>

The *EBB Order* requires reimbursements to be based on a “snapshot report of a provider’s enrolled subscribers as of the first of the month.”<sup>3</sup> Providers then have until the 15<sup>th</sup> of each month to submit to USAC their reimbursement claims for the households captured on the snapshot report.<sup>4</sup> Reimbursement claims submitted after that date will not be processed, and providers are prohibited from revising previously submitted claims.<sup>5</sup> Providers are required to certify to the accuracy of reimbursement claims by the 15<sup>th</sup> of each month.<sup>6</sup>

Although the *EBB Order* describes the EBB reimbursement process as “largely track[ing] the process in the Lifeline program,”<sup>7</sup> the EBB reimbursement process is substantially more challenging than the Lifeline reimbursement process due to the complexities in determining the reimbursement amount for each subscriber enrolled in the EBB program. First, whereas the Lifeline benefit is limited to a flat rate of \$9.25 each month for eligible broadband services, the EBB program support amount that providers receive “shall equal the actual discount provided to an eligible household off of the actual amount charged which shall be no more than the standard rate...”<sup>8</sup> USAC has also provided guidance on its website that “[i]t is the responsibility of the provider to input the amount equal to the discount passed to the subscriber in the service

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<sup>2</sup> See, e.g., WC Docket No. 20-445, *Emergency Broadband Benefit Program*, DA 21-455, Order (rel. April 20, 2021)(“*Verizon Waiver Order*”) and WC Docket No. 20-445, *Emergency Broadband Benefit Program*, DA 21-557, Order (rel. May 11, 2021)(“*Altice Waiver Order*”).

<sup>3</sup> *Emergency Broadband Benefit Program*, Report and Order, WC Docket No. 20-445, FCC 21-29, ¶98 (2021)(“*EBB Order*”).

<sup>4</sup> Id.

<sup>5</sup> Id., ¶¶99-100

<sup>6</sup> Id., ¶100

<sup>7</sup> Id., ¶98

<sup>8</sup> 47 C.F.R. §54.1603(a)

month.”<sup>9</sup> AT&T is currently offering the EBB program benefit on a number of home internet plans and the EBB reimbursement amount will have to be determined separately for each subscriber. Further, as described in more detail below, preparing the reimbursement claim is more difficult for the first month that an existing AT&T customer is enrolled in the EBB program as AT&T will not be able to determine the appropriate amount to claim for many of these subscribers until the first bill is processed.

Second, the EBB program gives providers much less time to determine the amount it is eligible for reimbursement and to submit a claim. Whereas Lifeline providers have a year from the snapshot date to submit a claim or make upward revisions to a previously-submitted claim,<sup>10</sup> the EBB program rules only give providers 15 days from the snapshot date to submit the reimbursement claim and certify its accuracy. In addition, the EBB rules prohibit providers from modifying any previously submitted claim.

AT&T’s request is consistent with the Commission’s well-established standard of granting waivers when (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.<sup>11</sup>

AT&T has conducted an extensive analysis of the EBB reimbursement requirements and the capabilities of its existing systems. AT&T’s existing systems cannot determine the reimbursement amount for many existing customers newly-enrolled in EBB in time to meet the 15-day claim deadline after the first snapshot for that customer. For existing AT&T customers that are newly enrolled in the EBB, the amount of benefit applied to the customer is prorated. AT&T will not be able to systematically determine the amount of the prorated EBB until the

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<sup>9</sup> See <https://www.usac.org/about/emergency-broadband-benefit-program/system-resources/ebb-program-claims-proc/>

<sup>10</sup> See <https://www.usac.org/lifeline/reimbursement>

<sup>11</sup> 47 CFR §1.3; *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

customer's bill is generated which may not occur in time for the reimbursement claim due on the 15th of the month. In establishing the program, the Commission recognized that employing a method that allows for partial claims "would be cumbersome to administer"<sup>12</sup> and that is equally as true for carriers that prorate the EBB support amount for partial service months but are required to only claim an amount "shall equal the actual discount provided to an eligible household off of the actual amount charged to such household."<sup>13</sup> The combination of a more difficult claims reimbursement process coupled with a shorter timeframe to claim reimbursement for subscribers makes it difficult for AT&T to claim the proper amount for existing customers newly enrolled in EBB. AT&T would, however, be able to submit the first claim for a subscriber newly-enrolled in EBB if the Commission extends the deadline by 30 days, i.e., until the 15<sup>th</sup> day of the month following the snapshot in which the customer first appears.

AT&T realizes the importance of the ability for the Commission to track as accurately as possible the continued availability of EBB program funds. The waiver that AT&T is requesting will not materially affect the ability of the Commission and/or USAC to track disbursements and accurately project depletion of the fund.<sup>14</sup> First, AT&T is seeking a one-month waiver of the 15-day deadline only for existing AT&T subscribers that are newly enrolled in the EBB program (i.e., appearing on the snapshot for the first time). Second, USAC will still have a count of the number of EBB subscribers enrolled in National Lifeline Accountability Database ("NLAD"), even if AT&T has not yet submitted the claim for newly-enrolled subscribers. In addition, AT&T currently provides a rough estimate upon enrollment in NLAD of the maximum

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<sup>12</sup> *EBB Order*, ¶90.

<sup>13</sup> 47 CFR §54.1603(a)

<sup>14</sup> See, e.g., *Verizon Waiver Order*, ¶8 ("We find that granting this limited waiver will not materially undermine USAC's ability to track disbursements and forecast for the projected final month of the program as the waiver Verizon is seeking is limited to a one-month delay of only a subscriber's first reimbursement snapshot.") See also *Altice Waiver Order*, ¶8.

reimbursement amount it plans to claim (e.g., \$75, \$50, \$10 or \$5). As this is a rough estimate, it does not account for the proration of EBB program benefits that may occur in the first service month to existing customers newly enrolling in the EBB program. Third, AT&T commits to provide a forecast estimating the total reimbursement amount for its existing subscribers newly enrolled in the EBB for which a claim will not be filed for an additional month pursuant to the waiver. This forecast will be based on AT&T's best estimate of the average reimbursement amount that will be claimed for this group of customers. This forecast estimate combined with the reimbursement claim for all other subscribers will enable USAC and/or the FCC to project the total reimbursement claims in each month. Upon grant of this waiver request, AT&T will submit its reimbursement claim for any newly enrolled subscribers by the 15<sup>th</sup> day of the next month (i.e., 30 days extension).

The waiver is in the public interest and special circumstances support approval of the requested waiver.<sup>15</sup> The added flexibility the waiver provides will allow AT&T to continue offering the EBB program benefit on a broader range of services, which is consistent with the EBB Order's stated intention and goal of having providers offer the EBB on multiple service offerings.<sup>16</sup> Further, AT&T's commitment to provide a good faith estimate each month of the claims for the existing subscribers newly enrolled in EBB and appearing on the snapshot for the first time will assist USAC and/or the Commission to track reimbursement requests and accurately determine the conclusion of the program due to the depletion of the fund.

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<sup>15</sup> See *Verizon Waiver Order*, ¶8 (“...we are convinced that the 15-day deadline for the first reimbursement claim for a newly-enrolled EBB subscriber poses a substantial hardship to Verizon in its EBB program participation and amounts to a special circumstance that warrants a deviation from the general rule.”); see also *Altice Waiver Order*, ¶8.

<sup>16</sup> *EBB Order*, ¶37. See also *Verizon Waiver Order*, ¶9 (“...we determine that granting the Petition will serve the public interest because the objective of the EBB Program is to encourage as many service providers as possible to offer the EBB discount on a variety of services.”); see also *Altice Waiver Order*, ¶9

For the foregoing reasons, AT&T requests expedited grant of the waiver relief requested herein.

Respectfully submitted,

AT&T SERVICES, INC.

By: /s/ Cindy Manheim

Cindy Manheim  
David J. Chorzempa  
David L. Lawson  
AT&T Services, Inc.  
1120 20th Street NW  
Suite 1000  
Washington, DC 20036

Its Attorneys

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